

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS**

MARIA ALEJANDRA CELIMEN SAVINO,
JULIO CESAR MEDEIROS NEVES, and all
those similarly situated,

Petitioners-Plaintiffs,

v.

STEVEN J. SOUZA,

Respondent-Defendant.

Case No. 1:20-cv-10617 WGY

ORAL ARGUMENT REQUESTED

June 24, 2020

**PLAINTIFFS' MOTION TO COMPEL COMPLIANCE WITH SUBPOENA
FOR PRODUCTION OF DOCUMENTS DIRECTED TO NONPARTY
BI INCORPORATED**

Pursuant to Rule 45(d)(2)(B)(i) of the Federal Rules of Civil Procedure, Local Rule 7.1, Plaintiffs respectfully move this Court to compel nonparty BI Incorporated, with whom U.S. Immigration & Customs Enforcement ("ICE") has contracted for supervision of released class members, to produce documents in compliance with the subpoena that Plaintiffs served on June 17, 2020. The subpoena called for production of records by June 24, 2020 at 12:00 pm ET.

The records at issue on this motion and sought by the subpoena are the GPS coordinates for the violations of house arrest alleged by Respondent as to the eight class members subject to the pending motion for bail revocation. ECF Nos. 199; 223. Respondent has provided Plaintiffs and the Court a *summary* list of dates and number of alleged violations, and the class members have provided declarations disputing the entries in the summary. It is likely that many of the alleged "violations" may reflect instances in which the class member was in the yard or curtilage of the home where each is residing, which might be confirmed or disproved by the underlying GPS violation records, which Respondent has never produced to this Court or Petitioners.

Counsel for BI Incorporated refused to produce the subpoenaed materials on the ground that its contract with ICE prevents production absent ICE consent, and that ICE has not consented.

Pursuant to Local Rule 7.1(a)(2), counsel for Plaintiffs, Respondent and nonparty BI Incorporated have conferred and attempted in good faith to narrow the areas of disagreement and resolve the issue.

WHEREFORE, Plaintiffs respectfully request that the Court issue and order compelling BI Incorporated to:

1. Produce all documents, spreadsheets, communications and electronically stored information referencing electronic or GPS monitoring, including any indications of potential violations of the terms of the GPS monitoring, and the date, time, and location of any such violations, of the following individuals:
 - a. Del Angel Moran, Gabino (A208-299-948), DOB: 9/27/1986
 - b. Mahadeo, Kavon (A059-104-840), DOB: 11/1/1985
 - c. Desmond, Joseph (A088-189-852), DOB: 8/2/1987
 - d. Vargas, Cesar (A045-456-709), DOB: 8/20/1980
 - e. Ferriera, Palmar (A029-514-865), DOB: 5/13/1962
 - f. Valentim, Lucas (A216-305-198), DOB: 9/11/1984
 - g. Ramirez-Maldonado, Ranferi (A205-241-005), DOB: 2/24/1981
 - h. Gutierrez-Deleon, Carlos (A216-305-137), DOB: 12/7/1978

LOCAL RULE 7.1(a)(2) CERTIFICATION

Undersigned counsel certifies that the parties met and conferred regarding the substance of this Motion in an attempt to resolve the disputes but were unable to reach agreement. Specifically, as set forth in the accompanying Memorandum, the Counsel for Petitioner emailed attorney Michael Sady, lead counsel for Respondent while attorney Thomas Kanwit is on vacation this week, at approximately 2:30 pm on June 24, 2020 requesting an immediate conferral in light of BI's representation that ICE had barred it from disclosing the records sought. As of this filing, attorney Sady has not responded. Additionally, Plaintiffs' counsel twice conferred with counsel for nonparty BI Incorporated telephonically, on June 19, 2020 and June 23, 2020, and negotiated via written communication between June 19, 2020 and June 24, 2020.

June 24, 2020

Respectfully Submitted,

/s/ Michael J. Wishnie

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CERTIFICATE OF SERVICE

I hereby certify that, on June 24, 2020 a copy of the foregoing document was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of this court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF system.

Date: June 24, 2020

/s/ Michael J. Wishnie

Michael J. Wishnie

† Admitted *pro hac vice*.

* Motion for law student appearances pending.